

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

REGULATIONS PERTAINING TO FIRE-CURED AND DARK AIR-CURED
TOBACCO MARKETING QUOTAS FOR THE 1938-39 MARKETING YEAR

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GENERAL

Sec. 31 Definitions. As used in these regulations and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject matter requires otherwise.

(a) Act means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) County committee means the county committee utilized under the Act.

(c) County office means the office of the County Agricultural Conservation Association, or the committees and employees of such association, according to the sense in which such term is used.

(d) Dealer means a person who engages, to any extent, in the business of acquiring tobacco from producers. No warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

(e) Farm means the farm for which the marketing quota was established.

(f) Farm marketing quota or quota means a fire-cured and dark air-cured tobacco marketing quota established for a farm under the Act.

(g) Field assistant means a field assistant or a field officer of the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture.

(h) Fire-cured and dark air-cured tobacco or dark tobacco means tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as types 21, 22, 23, 24, 35, 36, and 37.

(i) Marketing means the first bona fide disposition of tobacco by sale, barter, or exchange. "Market" and "marketed" shall have corresponding meanings to the term "marketing".

(j) Marketing card or card means a marketing card (Form 38-Tobacco 45) issued for a farm pursuant to these regulations.

(k) The 1938-39 marketing year means the period beginning with the first day of October 1938 and ending with the 30th day of September 1939.

(l) Memorandum of resale means Form 38-Tobacco 60.

(m) Memorandum of sale means Form 38-Tobacco 55 in the case of warehouse sales, and Form 38-Tobacco 56 in the case of nonwarehouse sales.

(n) Nonwarehouse sale means a marketing other than a warehouse sale.

(o) Operator means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(p) Person means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(q) Pound means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually delivered by a grower, would equal one pound standard weight.

(r) Producer means a person who, as owner, landlord, tenant, share-cropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

(s) Regulations means these Regulations Pertaining to Fire-cured and Dark Air-cured Tobacco Marketing Quotas for the 1938-39 Marketing Year.

(t) Resale means the disposition by sale, barter, or exchange of tobacco which has been marketed.

(u) Share of tobacco means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

(v) Tobacco means fire-cured and dark air-cured tobacco.

(w) Tobacco available for marketing from a farm means all tobacco produced on the farm which was not marketed (or otherwise disposed of) prior to the beginning of the 1938-39 marketing year, but shall not include any such tobacco which was destroyed before its marketing.

(x) Tobacco Section means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(y) Warehouse means a building or other place at which sales of tobacco at public auction are regularly held by a warehouseman during the tobacco marketing season.

(z) Warehouseman means a person regularly engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(aa) Warehouse sale means a marketing by sale at public auction on a warehouse floor and in the regular course of business.

Sec. 32 Gender and number of terms. Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, and in the plural number, wherever the context or application of such term so requires.

Sec. 33 Instructions and forms. The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

FARM MARKETING QUOTAS

Sec. 34 Establishment of farm marketing quota. The quota for a farm shall be determined and established in accordance with the "Procedure for the Determination of Fire-Cured and Dark Air-Cured Tobacco Farm Marketing Quotas for 1938" (Form 38-Tobacco 38) issued by the Secretary of Agriculture.

Sec. 35 Publication, notice, review. The publication, notice, and review of quotas as established shall be in accordance with the "Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton and Rice Established under said Title, and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38-AAA-2), issued by the Secretary of Agriculture.

Sec. 36 Rights of producers in quota. Each producer having a share in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota, his share of such tobacco; provided that, if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota only that proportion of his share of such tobacco which the quota is of the total quantity of such tobacco.

Sec. 37 Successors in interest. Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer in the quota.

Sec. 38 Marketing card for every quota. There shall be issued for each farm to which a quota is allotted a marketing card (Form 38-Tobacco 45) as evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Sections 49-59 of these regulations.

Sec. 39 Marketings charged against quota. Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38-Tobacco 55 or 56) covering such marketings are issued; provided that, a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38-Tobacco 25) such marketing consists of tobacco (1) marketed subject to penalty, (2) marketed solely for nicotine or other by-product uses, or (3) grown for experimental purposes only by a publicly owned experiment station.

MARKETING OF TOBACCO AND PENALTIES

Sec. 40 A memorandum of sale to be obtained for every marketing. Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38-Tobacco 55 in the case of warehouse sales, and Form 38-Tobacco 56 in the case of nonwarehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a nonwarehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38-Tobacco 56 as to the facts of the marketing is signed by the dealer and the producer (or by the producer alone if the marketing is made directly to a person outside the United States).

Sec. 41 When memorandum of resale to be obtained. Whenever any tobacco is resold through a warehouse, the warehouse bill covering such resale shall be presented to the field assistant at the warehouse, and, upon representation by the warehouseman that the tobacco covered by the warehouse bill was tobacco the marketing of which was previously covered by a memorandum of sale, the field assistant shall issue a memorandum of resale covering such tobacco.

Sec. 42 Purpose of memorandum of sale. A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face, may show, and if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment

of the penalty upon a marketing to check carefully the entries on the memorandum of sale issued to cover the marketing and the records upon which such memorandum is based. Any errors should be brought immediately to the attention of the field assistant for correction. Failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries.

Sec. 43 Marketings free of penalty. Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that

(a) such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

(b) such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38-Tobacco 25 by the by-product manufacturer and the producer; or

(c) such tobacco was grown for experimental purposes only by a publicly owned agricultural experiment station and is so identified by a certificate made on Form 38-Tobacco 25 by an authorized representative of the experiment station and the producer.

Sec. 44 Marketings subject to penalty. (a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to Sec. 43 of these regulations as tobacco the marketing of which was free of penalty..

(b) If a memorandum of sale or a memorandum of resale has not been obtained to cover a sale of tobacco through a warehouse, such sale shall be deemed to be a marketing which was subject to penalty.

(c) If a memorandum of sale has not been obtained to cover a nonwarehouse sale, such sale shall be deemed to be a marketing which was subject to penalty.

Sec. 45 Amount of penalty. The penalty upon any marketing of tobacco subject to penalty shall be 50 percent of the market price of such tobacco on the date of marketing, or 2 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evidence of the market price on the date of marketing where verified, in the case of warehouse sales, by a warehouse bill, or in the case of nonwarehouse sales, by the certificate (on Form 38-Tobacco 56) of the dealer and the producer.

Sec. 46 Persons to pay penalty, and deduction from purchase price.

(a) If the tobacco is marketed by the producer through a warehouseman (or cooperative marketing association or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid by the warehouseman (or such other agent), but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in paragraphs (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale.

Sec. 47 Payment of penalty. Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.) not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

(a) in the case of a warehouseman, by his report on Form 38-Tobacco 58, or

(b) in the case of a dealer, by his report on Form 38-Tobacco 59, or

(c) in the case of a producer, by his statement showing the date of sale, the number of pounds sold, the grade, the sale price thereof, and the name of the person outside the United States to whom sold.

The remittance may be made by draft, money order, or check, payable to the order of the Treasurer of the United States, but any such draft, money order, or check shall be received subject to payment at par.

Sec. 48 Refund of penalty. Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such penalty. Any claim filed with the Secretary of Agriculture pursuant to this Section shall be made in accordance with regulations prescribed by him.

MARKETING CARDS

Sec. 49 Form of card. The marketing card (Form 38-Tobacco 45) shall contain the signature in ink of both the person authorized to issue the marketing card and the operator, and a statement of the following information:

(a) the State and county code and serial number of the farm for which the marketing card is issued;

(b) the number of the marketing card;

(c) the name and address of the operator;

(d) the amount of the marketing quota, or, if more than one marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota";

(e) the date on which the marketing card is issued; and

(f) if more than one card is issued for any farm, the amount of the farm's transfer allotment apportioned to the card in accordance with Sec. 59 of these regulations.

Sec. 50 Person authorized to issue card. The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and in the absence of a specific designation the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated.

Sec. 51 Entries on card. No person other than a field assistant, or a person designated by the Chief of the Tobacco Section or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card.

Sec. 52 Receipt for card. After the marketing card has been duly prepared, it shall be delivered to the operator upon his receipt therefor. There shall be listed on the "Operator's Receipt, for Marketing Card" (Form 38-Tobacco 44), in the appropriate spaces thereon, the following information:

(a) each marketing card issued for the farm and received by him, and the number of pounds for which each such marketing card was issued; and

(b) the names of all producers having a share in the tobacco available for marketing from the farm.

The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether the name of such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates.

Sec. 53 Rights of producers in card. Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm, the quantity of such tobacco which he is entitled to market, or to have marketed for him, under the quota for the farm, as provided in Sec. 36 of these regulations.

Sec. 54 Invalid cards. (a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and manner required in these regulations, but such invalid marketing card shall become valid when returned to the county office and reissued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion, or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no transfer from the farm has been made, and no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of these regulations; but such invalid marketing card shall become valid when the marketing card has been forwarded to the Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card, when returned to the county office, shall be replaced by a new marketing card issued for an amount of quota determined as provided in Sec. 57 of these regulations.

(e) A marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(f) A marketing card shall be invalid if it is lost or stolen, but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which it was issued, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card, as provided for in Sec. 56 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) A marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace such destroyed or illegible marketing card, as provided in Sec. 56 of these regulations, and such destroyed or illegible marketing card shall be permanently invalid.

Sec. 55 Invalid cards suspended. If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name and address of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card, unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 54 of these regulations. Upon receipt of such notice, the Tobacco Section shall notify all field assistants, all county offices, and the operator of the farm, that the marketing card has been suspended for invalidity. If any such marketing card shall thereafter come into the possession of any field assistant or county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 54 of these regulations.

Sec. 56 Duplicate card to replace card which is lost, stolen, destroyed, or which becomes illegible. Whenever any marketing card is lost, stolen, destroyed, or becomes illegible, the county office shall be notified of the code and serial number, the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card and the amount of quota which had been transferred to the card. Such notice shall be in writing, subscribed to the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of two weeks has elapsed from the time of its receipt of such notice, a

duplicate marketing card may be issued by the county office for an amount or quota determined as provided in Sec. 57 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed, or which became illegible, and shall have written under the card number, in large letters, the word "Duplicate". The person issuing the marketing card shall sign the card in the space provided for his signature and shall also sign below the word "Duplicate".

Sec. 57 Amount of quota for duplicate cards. Whenever the county office issues a marketing card to replace any marketing card which has become invalid, the amount of quota for which such card shall be issued shall equal whichever of the following amounts is the smaller:

(a) the unused quota as stated by the operator; or

(b) the unused quota as determined by subtracting
the sum of --

(1) the total marketings within quota,

(2) the amount of quota transferred from the farm, and

(3) the total unused quota shown on all other marketing
cards issued for the farm;

from the sum of --

(1) the quota established for the farm, and

(2) the amount of quota transferred to the farm;

provided that, if no amount is stated by the operator, as provided under paragraph (a) of this section, the amount for which the card shall be issued shall be the amount determined under paragraph (b) of this section.

Sec. 58 Replacement of old cards. Whenever the space for recording marketings on any card becomes inadequate, such marketing card shall be surrendered to the county office and a new marketing card shall be issued for the amount of unused quota remaining on the marketing card so surrendered. The new card shall bear the same number as the number of the surrendered card, and such number shall be preceded by the letter "R". An appropriate entry shall be made on the surrendered marketing card showing that a new card has been so issued.

Sec. 59 Apportionment of transfer allotment among cards. Every marketing card issued shall bear a statement of the amount of the transfer allotment (determined in accordance with paragraph (b) of Sec. 60 of these regulations) which has been apportioned to the card; except that where only one card is issued for the farm such card shall bear no such statement.

This statement shall be written on the face of the card and below the words "Marketing Card (1938-39 fire-cured and dark air-cured tobacco)", and shall be in the following words, or an appropriate abbreviation thereof: "Maximum Increase by Transfer", followed by the amount apportioned to the card, or "No Increase by Transfer" if no apportionment is made to the card, as the case may be.

The apportionment of the transfer allotment among cards shall be made in accordance with the following rules:

(a) If only one card is issued for the entire quota, no entry will be made, and the entire transfer allotment shall be deemed to be apportioned to the card;

(b) If the quota established for the farm is divided among two or more cards, the apportionment shall be made in accordance with the request of the operator; or, if the operator makes no request with respect to the apportionment, there shall be apportioned to each card that portion of the transfer allotment which the amount of quota for which the card is issued is of the quota established for the farm;

(c) If, after the issuance of the marketing card or cards for a farm, the quota for the farm is increased, the amount of transfer allotment which shall be apportioned to the card issued on account of such increase in the farm quota shall be the amount by which the transfer allotment is increased by the increase of the farm quota.

(d) If an old card is replaced pursuant to Sec. 58, or if a duplicate card is issued pursuant to Sec. 56, the amount apportioned to the new card shall be the amount apportioned to the original card less the amount already transferred on account of such apportionment; provided that, if the amount apportioned to the original card cannot be determined from the county office records, the statement of the amount apportioned to the new card shall be "No Increase by Transfer", unless the operator of the farm shall present all other cards for the farm, and in that case the amount apportioned to the old card shall be deemed to be the amount by which the transfer allotment is greater than the total amount of the apportionments to such other cards issued for the farm.

TRANSFER OF QUOTA

Sec. 60 Amount of quota transferable. (a) From a farm. Quota may be transferred from a farm only to the extent and in the event that such quota exceeds the sum of: (1) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (2) the number of pounds of tobacco marketed from the farm solely for nicotine or other by-product uses, and (3) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

(b) To a farm. The amount of quota which may be transferred to a farm shall be the larger of: (1) 10 percent of the quota established for the farm, or (2) 500 pounds; and such larger amount shall be the farm's transfer allotment.

Sec. 61 Duties of person authorized to make transfer. Transfers may be made by a field assistant, or by a person authorized by the county committee to make transfers, and shall be made either directly between farms or through the county office transfer book. Any authorized person who makes a transfer of quota shall --

(a) satisfy himself that the authorization for transfer has been duly executed by the operator of the farm from which the transfer is to be made; that the requested transfer is proper (i.e., that the amount of quota to be transferred from the one farm is available for transfer in accordance with these regulations, and that the transfer to the other farm will not exceed the amount of the unused transfer allotment apportioned to the card on which the transfer is to be entered);

(b) record the transfer by making the appropriate entries on the respective cards, in case of direct transfers, or on the cards and in the county office transfer book, in case of transfers through a county office transfer book;

(c) when the appropriate entries have been made, execute the certificate on the authorization for transfer;

(d) after making a transfer to a farm through the county office transfer book, make a record of the transfer on Form 38-Tobacco 67.

Sec. 62 Direct transfers. If the transfer is to be made directly from one farm to another, the marketing cards for the respective farms, together with the authorization (Form 38-Tobacco 66) of the operator of the farm from which the transfer is to be made, shall be presented, for appropriate entries, to a field assistant or person in the county office authorized to make transfers.

Sec. 63 Transfers through a county office transfer book.

(a) From a farm. If the operator of the farm desires to arrange for a transfer of quota from his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for his farm, together with his authorization (Form 38-Tobacco 66), to a person in the county office (for the county in which the farm is located) authorized to make transfers.

(b) To a farm. If a producer desires to arrange a transfer of quota to his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for his farm, together with a deposit of the amount required to pay for the transfer (in the form of cash or a cashier's check, certified check, or money order payable to the County Agricultural Conservation Association) to a person in the county office authorized to make transfers.

(c) Order of transfer. (1) To farms. Transfers of quota to farms through the county office transfer book shall be made in the order in which requests for transfers, together with the marketing cards upon which such transfers are to be entered and the deposits to pay for such transfers, are received in the county office by a person authorized to make transfers.

(2) From farms. Transfers of quota from farms through the county office transfer book shall be made in the order in which authorizations for such transfers (Form 38-Tobacco 66) are received in the county office by a person authorized to make transfers.

(d) Expense of transfer. The county committee may adopt a schedule of charges (not exceeding 10 cents per 100 pounds, or major portion thereof, of quota transferred, or \$1.00 for any one request) to cover the expense of making transfers of quota through the county office transfer book. Such schedule of charges, when approved by the State Committee, shall be applied uniformly to all transfers through the county office transfer book, and shall be collected from the person requesting a transfer to his farm. The amount of any charge so collected shall be paid over to the Treasurer of the County Agricultural Conservation Association.

Sec. 64 County office transfer book. The county committee shall designate and authorize one person to make transfers in the county office, and in the absence of a specific designation, the person authorized to make transfers shall be the Secretary of the County Agricultural Conservation Association. The county committee may also designate an alternate person who, in the absence of the person authorized to make transfers in the county office, shall be authorized to make such transfers. The person so authorized shall be responsible for keeping the county office transfer book in which he shall record, with respect to each transfer, the following information:

(a) The code and serial number, and the name of the operator, of the farm from which quota is made available for transfer, the number of pounds, and the date on which made available, and the amount paid to the operator for the transfer.

(b) The code and serial number, and the name of the operator, of the farm to which a transfer is requested, the date of the request, the deposit or payment received, and the number of pounds transferred.

Sec. 65 Consideration for transfer. (a) If a transfer is made directly between farms, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 2 cents per pound for each pound of quota transferred, unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If the transfer is made through a county office transfer book, the consideration for the transfer shall be 2 cents per pound for each pound of quota transferred.

Sec. 66 Distribution of consideration. The consideration received by the operator for the transfer of any portion of the quota for the farm shall be divided among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm; except as follows:

(a) If the amount of tobacco produced on the farm in 1938 was materially affected because of drought, flood, hail, or other adverse weather conditions, or plant-bed or other diseases, such consideration shall be divided among the producers on the farm in proportion to what their shares would have been in the amount of tobacco which, except for such abnormal conditions of production, would have been available for marketing from the farm; such amount to be determined by multiplying the planted acreage, or the acreage which would have been planted except for such abnormal conditions, by the farm yield established for the farm pursuant to the Dark Tobacco Quota Procedure.

(b) If there is a loss of tobacco by fire, theft, or other accidental cause, the consideration shall be divided among the producers on the farm in proportion to their shares in the tobacco which, except for such loss, would have been available for marketing from the farm.

(c) If the consideration is received for quota which was not allotted to the farm but was acquired by transfer, the consideration shall be divided among the producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer.

(d) If all the producers on the farm agree among themselves upon a division of the consideration, the consideration shall be divided among the producers in accordance with such agreement.

Sec. 67 Producers' rights in transferred quota. Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer, shall be entitled to market, or to have marketed for him, under the transferred quota, that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer; provided that all producers on the farm shall be given an opportunity to contribute to such consideration in proportion to their shares in the tobacco available for marketing from the farm.

RECORDS AND REPORTS

Sec. 68 Warehouseman's records and reports. (a) Record of marketing. Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

(b) Reports. Every warehouseman shall make, on Form 38-Tobacco 58 and on Form 38-Tobacco 61, a daily report of those transactions made on his warehouse which are required to be shown on such forms. These reports shall be made for each day on which any such transaction is made on his warehouse, and, not later than the end of the calendar week next following the week in which occurred the days for which the reports are made, these reports, together with the warehouseman's remittance of penalties for such preceding week, payable to the Treasurer of the United States, shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C.

Every warehouseman shall also make, under oath and on Form 38-Tobacco 62, a monthly report of those transactions made on his warehouse which are required to be shown on such form. This report shall be made for each month during which any such transaction is made on his warehouse, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than ten days after the end of the calendar month for which the report is made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 69 Dealer's records and reports. (a) Records. Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from whom acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

(b) Reports. Every dealer shall make a report, on Form 38-Tobacco 59, of those transactions required to be reported on such form for each day and which he makes a purchase of tobacco from a producer other than at a warehouse sale. This report, together with the dealer's remittance of penalty, payable to the Treasurer of the United States, shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., on or before the end of the calendar week next following the week in which occurred the day for which the report is made.

Every dealer shall also make, under oath and on Form 38-Tobacco 63, a monthly report of all purchases and sales of tobacco made by him during the month for which the report is made. This report shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than ten days after the end of the calendar month for which the report is made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 70 Records and reports of cooperatives. Every cooperative marketing association which acquires title to any tobacco shall keep the records and make the reports required of dealers by these regulations. Every cooperative marketing association which acts as the agent of the producer in marketing tobacco shall keep the records and make the reports required of warehousemen by these regulations.

Sec. 71 Records and reports of redryers, etc. Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 72 Separate records and reports from persons engaged in more than one business. Any person who is required to keep any record or make any report as warehouseman, dealer, processor, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business.

Sec. 73 Failure to keep record or make report. Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under Sections 68-72 of these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500.

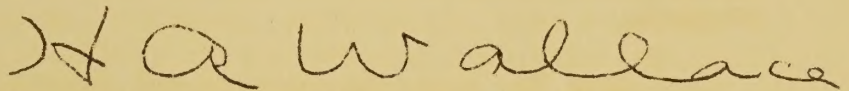
Sec. 74 Records open to inspection. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers.

Sec. 75 Information confidential. All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act.

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938) as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the foregoing regulations pertaining to fire-cured and dark air-cured tobacco marketing quotas for the 1938-39 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

(S E A L)

Done at Washington, D. C., this
30th day of November, 1938.
Witness my hand and seal of the
Department of Agriculture.


Secretary of Agriculture

